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USWEST

Eiridge A. Stafford
Executive Director-
Federal Regulatory

EX PARTE

October 17, 1996

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OCT 17 1996

Federal Communications Commission
Office of Secretary

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222, SC-1107
Washington, DC 20554

RE: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96-115,
Amendment of the Commission's Rules to Establish Competitive Service safeguards for Local Exchange Carrier Provision of Commercial Mobile Radio Services, WT Docket No. 96-162 /

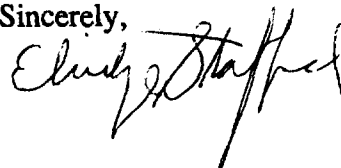
Dear Mr. Caton:

Representatives of U S WEST met today with Karen Brinkmann, Associate Chief of the Wireless Telecommunications Bureau, and Dorothy Atwood, Senior Attorney, William Kehoe, Special Counsel and Gayle Teicher, Senior Attorney, of the Common Carrier Bureau Policy and Program Planning Division. U S WEST was represented by Corey Ford, Vice President-Business Development and External Affairs, U S WEST Communications' Wireless Group, Kathy Krause, Senior Attorney, U S WEST, Ivy Stevens, Manager-Federal Regulatory Strategy, U S WEST Communications, and the undersigned. The attached material covers the points that were discussed at this meeting.

In accordance with Section 1.1206(a)(2) of the Commission's Rules, the original and one copy of this letter, with attachment, are being filed with your office for inclusion in the public record for the above mentioned proceedings. Acknowledgment and date of receipt of this transmittal are requested. A duplicate of this letter is provided for this purpose.

Please contact me if you have any questions.

Sincerely,



Attachment

cc: Ms. Dorothy Atwood
Ms. Karen Brinkmann
Mr. William Kehoe
Ms. Gayle Teicher



U S WEST

**Ex Parte Presentation
CC Docket No. 96-115
WT Docket No. 96-162**

CPNI/SLI Rules That Serve the Public Interest

October 17, 1996

Summary

- The Relationship Is Key.
- There Are Clear Public Benefits From a Carrier's Usage of Its CPNI.
- Customers Expect One-Stop Shopping.
- If Approval is Not Implied, Approval Process Should Be Flexible.
- An Affirmative Customer Authorization Is Not in the Public Interest.
- One Set of CPNI Rules Should Apply to All Carriers.
- The Market Should Drive Subscriber List Information Offerings.



The Relationship is Key

- The critical factor is not whether there is a choice of supplier, but that there is a relationship between the customer and the existing supplier--
 - that should be accommodated and respected;
 - that has factual and relational consequences.
- Telephone companies have been identified as an institution protective and responsible with regard to customer data. (U S WEST 1991 Comments, CC Docket No. 90-623, fns 222-223, citing to various surveys done in the 1980s and internal company focus group work.)

U S WEST advises its customers via the Call Guide Section of the White Pages telephone directories that customers' privacy is important and their records are "fully protected." (U S WEST 1994 Comments, CC Docket No. 90-623/92-256, para. 19-20.)

- Customers expect businesses with whom they have relationships to be knowledgeable about them.

The Relationship is Key, cont'd

- Customers do not experience anxiety about privacy when a business uses its own customer data for multiple purposes or shares the data with its affiliates. (Louis Harris & Assoc. 1994 Study, U S WEST 1994 Comments, CC Docket No. 90-623/92-256, fns 30-31.)
- The FCC has recognized that customers in existing business relationships have little or no privacy concerns within those relationships.
 - “...a solicitation to someone with whom a prior business relationship exists does not adversely affect subscriber privacy interests.” TCPA Proceeding, CC Docket No. 92-90, 10/16/92, para. 34.
 - “...we find that a consumer's established business relationship with one company may also extend to the company's affiliates and subsidiaries.” TCPA Proceeding, CC Docket No. 92-90, 10/16/92, para. 34.

The Relationship is Key, cont'd

- Even U S WEST's nonpublished and nonlisted customers (those generally thought to be at the apex of privacy sensitivity), have indicated their awareness of the importance of personal information to a business, are quite comfortable with uses they have agreed to either directly or by implied consent, and have indicated that they have no problem with U S WEST contacting them about products and services, through either direct marketing or telemarketing. (U S WEST 1994 Comments, CC Docket No. 90-623/92-256, pages 10-11.)



There Are Clear Public Benefits From A Carrier's Use Of Its CPNI

- Regulations that complicate the relationship between customers and a business add unwarranted inefficiencies to the delivery of services and to the introduction of new services.
- A carrier's use of its CPNI furthers the Commission's goals of market expansion for existing and new products and advances customer marketplace choices.
- A carrier's ability to use its CPNI:
 - allows for focused product development based on the record of customer choices and prior experience with the customer,
 - enables a carrier to acknowledge the existing relationship with its customers and their product choices,
 - optimizes one-stop shopping for customers,
 - enables educated target marketing.



There Are Clear Public Benefits, cont'd

- Customers benefit by carriers maximizing their resources, including their CPNI, to bring innovative, quality products to market as solutions to customers' needs. Examples include new wireless or long distance service offerings, or bundled offerings, e.g., wireless with voice messaging service, or long distance with local service.



Customers Expect One-Stop Shopping

- Customers want to purchase bundled services via a single contact with a single provider (e.g., wireless service with wireline service and voice messaging service).
- The FCC recognizes that access to CPNI facilitates one-stop shopping. (AT&T/McCaw Order, File Nos. ENF-93-44 & 05 288-CH-TC-1-93.)
- Wireless is one of the products that customers want to purchase from a single telecommunications provider.
- U S WEST plans to meet customers' expectations by offering on 10 MHz licenses a wireless option that is customer friendly (e.g., identical access to features, one bill, and dial tone just like wireline) that can be purchased along with other telecommunications products.
- CPNI rules should not be structured to hinder the ability of customers to obtain a full range of products and services from U S WEST or any other telecommunications provider.



If Approval Is Not Implied, Approval Process Should be Flexible

- Customer approval should be implied from the existing business relationship.
- Carriers should have flexibility in the way in which they seek and secure customer approval and the extent of the approval requested.
- Both oral approval and notice with opt-out should be permitted.
- Approval should be permitted to be sought both for telecommunications carriers and affiliates, including those offering non-telephony services.
- Each telecommunications carrier must have flexibility to craft its message in a manner that relates best to the customers it serves.



An Affirmative Customer Authorization Is Not in the Public Interest

- Requiring an American business to obtain affirmative customer authorization to be able to use its commercial information is unprecedented, except for the limited ONA requirement regarding customers having more than 20 lines (1991 Order, CC Docket No. 90-623).
- The FCC has acknowledged that affirmative customer authorization would be extremely difficult to secure -- especially with respect to mass market customers. (FCC 1994 Public Notice, 9 FCC Rcd 1685 and CI-III Remand Order, 6 FCC Rcd at 7610, fn 155 (1991).)
- There is no clear indication that Congress meant the FCC to require affirmative customer authorization. Without such clarity, it should not be assumed to be Congressional intent.



An Affirmative Customer Authorization Is Not in the Public Interest, cont'd

- U S WEST's experience with ONA affirmative authorization requirement:
 - inaction causes a customer's account to be restricted contrary to actual customer intent,
 - delays responding to customers and providing service,
 - frustrates and annoys customers when the carrier representative has no access to, or knowledge of, the specific information associated with the existing business relationship.



One Set of CPNI Rules Should Apply to All Carriers

- Based on statutory language, the same rules should apply to all telecommunications carriers.
- Based on the statutory goal of privacy protection and total industry application, existing ONA/CPE CPNI rules should be either eliminated or applied to all telecommunications carriers equally.
- Unequal application of CPNI rules does nothing to advance customer privacy interests and would operate to burden individual competitors rather than advance competition.
- Different rules, for different carriers, for different products, will make the customer approval process confusing, complicated, time consuming, and costly.

The Market Should Drive Subscriber List Information Offerings

- The statute is self-explanatory:
 - minimal market problems,
 - no need for detailed rules and regulations.
- The FCC should not dictate a one-size-fits-all approach.
- The statute requires that SLI be provided at reasonable rates. Incremental cost is neither necessary nor appropriate.
- LECs should be required to provide primary advertising classifications only if they offer such a classification.
- Multiple uses should be permitted at carrier's discretion.

The Market Should Drive
Subscriber List Information Offerings, cont'd

- LECs should provide the same SLI to non-affiliated directory publishers that it provides to the directory publishing operation that publishes its directory listings:
 - same elements,
 - same format,
 - same price.
- Promulgating a set number of elements and price structure hinders market influences.
- The FCC has very little information on what current SLI offerings contain. To avoid disruption of existing SLI-dependent businesses (e.g., suppliers and purchasers), it should not make decisions on SLI content without full understanding of the existing market and offerings.